IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 3135 OF 2002

IN

SUIT NO.1001 Of 1995

1. Shri Vipulkumar Rajnikant
Thanwala & Anr. .. **Plaintiffs.**

v/s.

1. Ganeshlal Valamji Pasoli & Ors. .. **Defendents.**

Plaintiff present in person.

Mr. D.P.Shah, advocate for defendant No.3.

CORAM: D.G.DESHPANDE, J.

DATE : 29TH NOVEMBER, 2004.

P.C. :-

. Heard the advocate for the defendant No.3 and plaintiff who is present in person and arguing on his own case. This motion is taken out to set aside the exparte decree dated 23rd October, 2002. That decree came to be passed on the ground that the defendant No.3 has not filed written statement.

2. In fact the defendant No.3 has prepared written statement and served copy thereof upon the advocate of the plaintiff. This fact is admitted by the plaintiff. However, he states that his advocate met with an accident and he did not communicate to him the fact of filing written statement. In any case, the defendant No.3 is not at fault. But since there is delay on his part in filing written statement (He has not filed yet. It is with him.) exparte decree be set aside subject to cost of Rs.1,000/-. Cost to be paid to the plaintiff within two weeks as condition precedent. Written Statement is taken on record. Motion disposed of.